



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/931,721	09/16/97	PAPADOPOULOU	1038-729MIS:

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EXAMINER  
CAPUTA, A

ART UNIT  
1645

PAPER NUMBER

DATE MAILED: 08/25/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Art Unit: 1645

## DETAILED ACTION

### *Election/Restriction*

**Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-305-3704. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Donald E. Adams, Ph.D., Supervisory Patent Examiner at [Donald.Adams@uspto.gov](mailto:Donald.Adams@uspto.gov) or 703-308-0570. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16, drawn to parasites and immunogenic compositions, classified in class 435, subclass 325.
  - II. Claim 17, drawn to a method of generating an immune response in a host, classified in class 424, subclass 178.1.
  - III. Claims 18-20, drawn to methods for producing a vaccine, classified in class 424, subclass .
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be

Art Unit: 1645

distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product of Group I can be used in a materially different method of use, such as in a method of culturing to produce GM-CSF or as a reagent in a detection assay..

3. Inventions III and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by materially different methods, such as by a method which involves *in vitro* testing.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Art Unit: 1645

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Caputa whose telephone number is (703) 308-3995. Inquiries of a general nature should be directed to the Group receptionist at (703) 308-0196.

August 20, 1998

Application/Control Number: 08/931,721

Page 5

Art Unit: 1645



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SUPERVISORY PATENT EXAMINER